



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

HARVEY LEE FUNCHES

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:15cv586 HTW-LRA

CHASE E. NOLAND, ABC CORPORATION,  
DEF CORPORATION, UVW, LLC, XYZ, LLC,  
AND JOHN DOES 1, 2 AND 3

DEFENDANTS

NOTICE OF REMOVAL

TO: Dean Andrews, Jr., Esq.  
903 Jackson Street  
Vicksburg, Mississippi 39183

Harvey Lee Funches  
c/o Dean Andrews, Jr., Esq.  
903 Jackson Street  
Vicksburg, Mississippi 39183

Jan Hyland Daigre, Clerk  
Circuit Court of Warren County  
Post Office Box 351  
Vicksburg, Mississippi 39181-0351

**YOU WILL PLEASE TAKE NOTICE** that this Notice of Removal and the exhibits attached hereto have this day been filed for and on behalf of Defendant Chase E. Noland ("Defendant") in the United States District Court for the Southern District of Mississippi, Northern Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. You are hereby served with a copy of this Notice of Removal of said cause to said United States District Court from the Circuit Court of Warren County, Mississippi, upon the grounds stated herein. Pursuant to said removal, you will proceed no further in said Circuit Court of Warren County, Mississippi, and you shall be mindful of the provisions of 28 U.S.C. §§ 1441 and 1446. Please take notice hereof and govern yourselves accordingly.

As the statement of grounds for removal of this civil action, Defendant states:

### **PROCEDURAL BACKGROUND**

1. This suit was filed in the Circuit Court aforesaid on or about July 16, 2015. See Summons and Complaint and discovery matters attached hereto as part of Exhibit "A." Plaintiff Harvey Lee Funches ("Plaintiff") seeks damages from Defendant as the result of an automobile accident occurring on March 30, 2015. See Complaint, part of Exhibit "A" hereto, ¶¶12-25. Plaintiff claims entitlement to recover both compensatory and punitive damages from Defendant. Id., ¶¶23 and 24.

### **ALLEGATIONS AND NATURE OF COMPLAINT**

2. While this suit was originally filed on July 16, 2015, in the Circuit Court of Warren County, Mississippi, as noted above, service of process on Defendant was effective only as of July 29, 2015. The time for removal, therefore, has not expired. The Complaint shows a claim by Plaintiff, as a Mississippi resident, against Defendant, a Louisiana resident, clearly for more than the federal court, jurisdictional minimum of \$75,000, exclusive of interest and costs, as Plaintiff seeks compensatory damages of \$4,000,000.00 and punitive damages of \$3,000,000.00. See Complaint, ¶¶23-24.

### **DIVERSITY JURISDICTION**

3. At the time the Complaint was filed, at the time of this removal, and during all intervening times, Plaintiff was a resident of the State of Mississippi. Complaint, ¶1.

4. At the time the Complaint was filed, at the time of removal, and during all intervening times, Defendant was a resident of the State of Louisiana. Complaint, ¶2.

5. Complete diversity of citizenship, therefore, exists between Plaintiff and Defendant. Even though the Complaint refers to fictitious or unnamed corporate or other legal entities and John Does, the citizenship of such parties is disregarded for removal purposes. 28 U.S.C. § 1441(a); *Ward v. Roxy Investment, L.P.*, 2006 WL 51189 \*4 (S.D. Miss. Jan. 9, 2006). Accordingly, under 28 U.S.C. § 1332, this Court has original jurisdiction over the claims asserted by Plaintiff against Defendant because those claims present a controversy between parties of diverse citizenship, and for the reasons set forth above, the amount in controversy exceeds \$75,000, exclusive of interest and costs. This case is, therefore, removable under 28 U.S.C. § 1441(a).

**AMOUNT IN CONTROVERSY**

6. As noted above, Plaintiff seeks significantly more than the federal jurisdictional minimum. Complaint, ¶¶23-124.

7. Under 28 U.S.C. § 1332, this Court has original jurisdiction over the claims asserted by Plaintiff because those claims present a controversy between parties of diverse citizenship, and the amount in controversy exceeds \$75,000, exclusive of interest and costs, making this case removable under 28 U.S.C. § 1441(a).

8. Pursuant to 28 U.S.C. § 1446(a), a copy of the Summons and Complaint and all other papers served upon Defendant are attached hereto as collective Exhibit "A." Also, a complete and certified copy of the entire state court file is being obtained and will be filed herein forthwith.

9. Contemporaneously with the filing of this Notice of Removal, written notice is being served upon Plaintiff, through Plaintiff's counsel of record, and a copy of this Notice of Removal is being mailed for filing to the Clerk of the Circuit Court of Warren County, Mississippi, pursuant to 28 U.S.C. § 1446(d).

10. Defendant reserves the right to file additional support for this Notice of Removal by way of affidavits, deposition testimony, expert testimony, discovery or other evidence or legal memoranda, and reserves the right to amend this Notice of Removal as may be necessary.

This, the 13<sup>th</sup> day of August, 2015.

Respectfully submitted,

DEFENDANT CHASE E. NOLAND

BY:   
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SAM S. THOMAS (MSB #8307)

ATTORNEY FOR DEFENDANT CHASE E. NOLAND

OF COUNSEL:

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[sst@underwoodthomas.com](mailto:sst@underwoodthomas.com)

**CERTIFICATE OF SERVICE**

I, Sam S. Thomas, do hereby certify that I have this day mailed via United States Mail, postage fully prepaid, a true and correct copy of the above and foregoing document to:

Dean Andrews, Jr., Esq.  
903 Jackson Street  
Vicksburg, Mississippi 39183

Harvey Lee Funches  
c/o Dean Andrews, Jr., Esq.  
903 Jackson Street  
Vicksburg, Mississippi 39183

Jan Hyland Daigre, Clerk  
Circuit Court of Warren County  
Post Office Box 351  
Vicksburg, Mississippi 39181-0351

THIS the 13<sup>th</sup> day of August, 2015.



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SAM S. THOMAS